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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/035,700
Filing Date: October 29, 2001
Appellant(s): PREIST ET AL.

MAILED

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GROUP 3600

Charles W. Griggers
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/03/2007 appealing from the Office action mailed July 5, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,495,412

Thiessen

02-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Thiessen (US Patent No. 5,495,4112).

As per claims 1, 12, 18, 19 and 23, Thiessen discloses the invention as claimed. Thiessen discloses a computer-based method and apparatus for enabling negotiations between one or more parties. The system and method comprise a computer network having a plurality of nodes; a computer node having a processor being arranged to define the negotiation between the entities with a set of negotiation activities (see figure column 5, lines 25-40); wherein the computer node is operable to implement a plurality of negotiation rules, each rule set constraining the set of negotiations activities to a specific negotiation type (column 6, lines 2-26) thereby allowing an entity to select at least one of a plurality of negotiation types.

As per claim 2, Thiessen teaches a plurality of nodes are arranged to define the negotiation between the entities (figure 1) with a set of negotiation activities (columns 5-6) wherein each of the plurality of nodes are operable to implement a plurality of negotiation rule sets (column 6, line 61 to column 7, line 46).

As per claims 3-5, 13-15 Thiessen teaches the at least one of the entities is a software negotiation agent, the computer node incorporates the software negotiation agent and the at least one of the entities is a user. See columns 6-7 and figure 1.

As per claim 6, 16, Thiessen discloses the at least one of the entities is a negotiation host (system 20) and at least another of the entities is a negotiation participant. See figure 1 of Thiessen.

As per claim 7, 17 Thiessen teaches wherein at least one of the rule sets constrains the negotiation activities to an auction and at least another rule set constrains the negotiation activities to a one on one negotiation. See column 11, line 25-52.

As per claims 8-11 and 20-22 and 24-25, see column 11, line 54 to column 15, line 29.

Appellant's representative argues that:

"Accordingly, Thiessen does not match compatible proposals. Rather, Thiessen searches for alternatives to party proposals, establishes a common base alternative, and then compares a potential solution with the common base alternative (which is not a proposal submitted by a participant) by considering how much satisfaction the solution brings to one or more parties. Once a common base has been established, an improved alternative solution is sought that will improve upon the common base alternative. See col. 3, lines 11-60. Moreover, in Thiessen, ICANS "generates an agreement that optimizes both the individual and overall benefit to the parties." Col. 17, lines 9-11 (Emphasis added). As such, Thiessen does not form an agreement by matching compatible proposals".

Appellant then states that as a result, Thiessen does not teach or suggest at least all of the claimed features of claims 1, 12, 18 and 23. Therefore, claims 1, 12, 18 and 23 are not anticipated by Thiessen, and the rejection should be withdrawn for at least this reason alone.

In response, the Examiner disagrees. In the system of Thiessen, parties are encouraged to make proposal and the system validates proposals submitted by all parties. The central computer

matches compatible proposals in accordance with rules defined in the selected negotiation rule set and forms an agreement. See columns 3-4 of Thiessen. The system considers various negotiation rules wherein each rule has constraints based on set of activities and negotiation types.

As per the limitations of:

“wherein the computer node is operable to implement a plurality of negotiation rule sets defining a plurality of market mechanisms, ... the selected negotiation rule set being used to validate proposals submitted by participants in the negotiation, the computer node matching compatible proposals in accordance with rules defined in the selected negotiation rule set and forming an agreement as found in claims 1, 12 and 18.

“wherein a number of different market mechanisms are definable by different arrangements of negotiation activities, the negotiation activities include a proposal validator for validating a proposal, received from an entity, with an agreement template, a negotiation locale for providing a validated proposal to a proposal compatibility checker for comparing proposals received from the negotiation locale to determine compatibility of received proposals to establish an agreement” as found in claim 19 and

“wherein a number of different market mechanisms are definable by different arrangements of negotiation activities, the negotiation activities include a proposal validator for validating a proposal, received from an entity, with an agreement template, a negotiation locale for providing a validated proposal to a proposal compatibility checker fro comparing proposals

received from the negotiation locale to determine compatibility of received proposals to establish an agreement”.

Thiessen is directed to a computer-based method and apparatus for interactive computer-assisted negotiations. Thiessen teaches a plurality of participants, each using a computer for submitting proposals and preferences to a computer system embodied as an Interactive Computer-Assisted Negotiation Process Support System (ICANS) for reaching an agreement or for assisting the different participants in real time toward achieving an optimal mutually satisfactory agreement in dynamic, multi-issue, multi-party negotiations.

Thiessen states on column 3, lines 29-51:

“ICANS first encourages parties to make a proposal or identify at least one alternative solution to the problem that their party would find acceptable. ICANS then uses the preference information provided by each party to search for equivalent alternatives to party proposals by using linear programming to solve an optimization problem for which the objective is to insure no loss in satisfaction for any party while minimizing the maximum gain achieved by any party. If all parties accept the alternative generated by ICANS as a tentative agreement, that alternative is known as a common base alternative (common base for short). The purpose of establishing the common base is to facilitate the negotiations by converting inconsistent proposals offered by each party into what is for everyone an equivalent one from which joint negotiations can proceed. If no alternative equivalent to party proposals exists, the same optimization process can be used to generate a compromise to party proposals that would represent equivalent losses to each party. This compromise, or in fact any alternative created by ICANS or any other party, can

also be considered as a candidate for the common base. In some cases, the parties may all agree to a common base at the outset, thereby bypassing the need for ICANS to generate it”.

Thiessen further states on column 4, lines 13-26 that:

“Before parties can enter information regarding their preferences on the outcome of a particular issue, they each must enter a bargaining range that defines the range of acceptable outcomes for that issue from least desirable to most desirable. Within this range, ICANS generates a satisfaction function that defines a party's relative satisfaction as a function of the issue's outcome. By default, the relative satisfaction function for each issue is assumed to be linear between the extremes of the range of values specified for that issue by the party, however, the party has the option of changing that function to more accurately describe their relative satisfaction function by picking points on the graphical interface”.

Thiessen then states on column 4, lines 54-63 that:

“This information can then be transmitted to a central computer system at a neutral site which processes all of the preference data from each of the parties, uses this information to generate the equivalent alternative, and transmits the results back to each of the parties. If the parties agree, the equivalent alternative proposal is used as the common base alternative. The central computer system will then generate the improved alternative along the efficiency frontier, and once again, transmit the results back to the parties”.

Providing an agreement including different parties having different interests and providing different proposals relating to a negotiation process in purchasing one or more items or providing one or more services as noted in Thiessen is similar to implementing a plurality of negotiation rule sets defining a plurality of market mechanisms since the computer system of

Thiessen must compare and match different proposals set by all parties before arriving at a mutual and dynamic agreement.

(10) Response to Argument

As per claim 1, Appellant argues that in the ICANS system described by Thiessen, ICANS attempts to determine a solution providing equivalent satisfaction between the parties and further states that a party cannot select a framework upon which ICANS uses to determine a solution for a problem and that there are not multiple frameworks available to be used by ICANS if handling a negotiation. Rather, ICANS uses the same framework to handle each and every negotiation.

In response, in the ICANS system of Thiessen, all participants select preferences and set their objectives in a given dispute before ICANA determines a solution for the related dispute. Particularly, Thiesen states:

“Each of the parties to the negotiation that are entering data to be processed, communicates with their computer system 12 by means of its graphical interface 14. In particular, each party enters information pertaining to their preferences on each issue of the problem or dispute being negotiated. Each of the computer systems 12 uses this information to make a number of calculations as described in detail below, and transmits the information and the calculation to the central computer 18.”.

See column 5, lines 42-50. The negotiation types are similar to the types of preferences inputted by the participants in relationship to a particular dispute or conflict to establish the framework.

Art Unit: 3692

Thiessen then states:

“The central computer 18 located at the neutral site 20 processes all of the information received from each of the computer systems 12 as discussed in greater detail below, and determines proposed solutions to the problem or dispute that will provide an optimal level of both total and individual satisfaction or benefit to the parties. These proposed solutions are then transmitted to each of the remote computer systems 12 for review and approval by all of the parties.”. See column 5, lines 52-60.

Thus, the central computer 18 uses these inputted information to validate the proposals submitted by the participants by matching proposals from all participants in accordance with the set of negotiation rules and the related mathematical algorithms to generate one or more solutions satisfying all the participants' preferences.

Thiessen further states:

“It will be understood that in situations where the parties do not require confidentiality, the neutral site may be omitted, and if parties are willing to take turns, even a single one of the computer systems 12 and associated graphical interface 14 could be employed”.

See column 5, lines 60-65 of Thiessen.

Thiessen further states that once the solutions are presented to the user, the user may then set alternate satisfaction levels and ICANS will then attempt to determine other possible solutions. See column 6, lines 53-67, column 8, lines 47-66 and column 12, line 54 to column 14, line 56 of Thiessen.

In response to the appellant's assertion that a party cannot select a framework upon which ICANS uses to determine a solution for a problem and that there are not multiple frameworks available to be used by ICANS if handling a negotiation, the Examiner respectfully disagrees with such an assertion. Thiessen states that a participant selects a plurality of preferences related to a type of negotiations. See column 5, lines 42-50. Thiessen also states that ICANS further teaches that a plurality of solutions is presented to the participants for selection to the participants. See column 5, lines 58-65 and column 6 of Thiessen.

As per the appellant's argument that there are not multiple frameworks available to be used by the ICANS in handling a negotiation, appellant is directed to column 12, lines 54-67, column 14, lines 44-57 and column 16, lines 23-37.

The appellant then states that the act of comparing and matching different proposals is not tantamount to defining a rule set that defines how the comparing and matching processes should be implemented.

In response, appellant merely provides a statement that the Examiner's analysis is incorrect without any support in concert with their assertion. Furthermore, it should be noted that the central computer of ICANS analyzes users' preferences, goals and objectives which will satisfy all related participants and present one or more solutions to the related parties. See also column 8, lines 45-63. The system compares and matches all processes based on the defined rules which are stored within the central computer. Various constraints are taken into consideration. Calculations are made to find the one or more solutions. The appellant is also directed to columns 11-12 of Thiessen.

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As per claims 12,18, 19 and 23, the appellant presents similar argument related to claim 1 above. The appellant is referred to the above noted response regarding claims 1 and 12 above.

Dependent claims 2-11, 13-17, 20-22 and 24-26 remain rejected as being anticipated by Thiessen as noted above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3692

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Frantzy Poinvil/

Primary Examiner, Art Unit 3692

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